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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

NATHAN HALE, on behalf of himself and all) Case No.  
others similarly situated, )  
) **CLASS ACTION**  
Plaintiff, )  
) **COMPLAINT FOR VIOLATIONS OF:**  
vs. )  
) 1. NEGLIGENT VIOLATIONS OF THE  
) TELEPHONE CONSUMER  
BARCLAYS BANK DELAWARE, ) PROTECTION ACT [47 U.S.C. §227 ET  
) SEQ.]  
) 2. WILLFUL VIOLATIONS OF THE  
Defendants. ) TELEPHONE CONSUMER  
) PROTECTION ACT [47 U.S.C. §227 ET  
) SEQ.]  
) **DEMAND FOR JURY TRIAL**  
)  
)  
)  
)  
)

Plaintiff, Nathan Hale ("Plaintiff"), on behalf of himself and all others similarly  
situated, alleges the following upon information and belief based upon personal knowledge:

**NATURE OF THE CASE**

1. Plaintiff brings this action for himself and others similarly situated seeking  
damages and any other available legal or equitable remedies resulting from the illegal actions  
of BARCLAYS BANK DELAWARE ("Defendant"), in negligently, knowingly, and/or  
willfully contacting Plaintiff on Plaintiff's cellular telephone in violation of the Telephone

1 Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (“TCPA”), thereby invading Plaintiff’s  
2 privacy.

3  
4 **JURISDICTION & VENUE**

5 2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff, a resident  
6 of California, seeks relief on behalf of a Class, which will result in at least one class member  
7 belonging to a different state than that of Defendant, a company with its principal place of  
8 business and State of Incorporation in Delaware state. Plaintiff also seeks up to \$1,500.00 in  
9 damages for each call in violation of the TCPA, which, when aggregated among a proposed  
10 class in the thousands, exceeds the \$5,000,000.00 threshold for federal court jurisdiction.  
11 Therefore, both diversity jurisdiction and the damages threshold under the Class Action  
12 Fairness Act of 2005 (“CAFA”) are present, and this Court has jurisdiction.  
13

14  
15 3. Venue is proper in the United States District Court for the Central District of  
16 California pursuant to 18 U.S.C. 1391(b) and 18 U.S.C. § 1441(a) because Defendant does  
17 business within the state of California and Plaintiff resides within this District.  
18

19 **PARTIES**

20 4. Plaintiff, NATHAN HALE (“Plaintiff”), is a natural person residing in San  
21 Diego County in the state of California and is a “person” as defined by 47 U.S.C. § 153 (10).

22 5. Defendant, BARCLAYS BANK DELAWARE (“Defendant”), is a nationwide  
23 banking institution and is a “person” as defined by 47 U.S.C. § 153 (10).  
24

25 **FACTUAL ALLEGATIONS**

26 6. Beginning in or around April of 2015, Defendant contacted Plaintiff on his  
27 cellular telephone, ending in -2783, in an effort to sell or solicit its services.

28 7. Plaintiff revoked his consent to be called on his cellular telephone. However,

1 Defendant continued to call Plaintiff.

2 8. Defendant called Plaintiff from telephone number 866-456-0677.

3 9. Defendant used an “automatic telephone dialing system”, as defined by 47  
4 U.S.C. § 227(a)(1) to place its daily calls to Plaintiff seeking to sell or solicit its business  
5 services.

6 10. Defendant’s calls constituted calls that were not for emergency purposes as  
7 defined by 47 U.S.C. § 227(b)(1)(A).

8 11. Defendant’s calls were placed to telephone number assigned to a cellular  
9 telephone service for which Plaintiff incurs a charge for incoming calls pursuant to 47 U.S.C. §  
10 227(b)(1).

11 12. Plaintiff is not a customer of Defendant’s services and has never provided any  
12 personal information, including his cellular telephone number, to Defendant for any purpose  
13 whatsoever. Accordingly, Defendant never received Plaintiff’s “prior express consent” to  
14 receive calls using an automatic telephone dialing system or an artificial or prerecorded voice  
15 on his cellular telephone pursuant to 47 U.S.C. § 227(b)(1)(A).

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17  
18  
19 **CLASS ALLEGATIONS**

20 13. Plaintiff brings this action on behalf of himself and all others similarly situated,  
21 as a member of the proposed class (hereafter “The Class”) defined as follows:

22  
23 All persons within the United States who received any telephone  
24 calls from Defendant to said person’s cellular telephone made  
25 through the use of any automatic telephone dialing system or an  
26 artificial or prerecorded voice and such person had not previously  
consented to receiving such calls within the four years prior to  
the filing of this Complaint

27 14. Plaintiff represents, and is a member of, The Class, consisting of All persons  
28 within the United States who received any telephone calls from Defendant to said person’s

1 cellular telephone made through the use of any automatic telephone dialing system or an  
2 artificial or prerecorded voice and such person had not previously not provided their cellular  
3 telephone number to Defendant within the four years prior to the filing of this Complaint.

4 15. Defendant, its employees and agents are excluded from The Class. Plaintiff  
5 does not know the number of members in The Class, but believes the Class members number in  
6 the thousands, if not more. Thus, this matter should be certified as a Class Action to assist in  
7 the expeditious litigation of the matter.  
8

9 16. The Class is so numerous that the individual joinder of all of its members is  
10 impractical. While the exact number and identities of The Class members are unknown to  
11 Plaintiff at this time and can only be ascertained through appropriate discovery, Plaintiff is  
12 informed and believes and thereon alleges that The Class includes thousands of members.  
13 Plaintiff alleges that The Class members may be ascertained by the records maintained by  
14 Defendant.  
15

16 17. Plaintiff and members of The Class were harmed by the acts of Defendant in at  
17 least the following ways: Defendant illegally contacted Plaintiff and Class members via their  
18 cellular telephones thereby causing Plaintiff and Class members to incur certain charges or  
19 reduced telephone time for which Plaintiff and Class members had previously paid by having to  
20 retrieve or administer messages left by Defendant during those illegal calls, and invading the  
21 privacy of said Plaintiff and Class members.  
22

23 18. Common questions of fact and law exist as to all members of The Class which  
24 predominate over any questions affecting only individual members of The Class. These  
25 common legal and factual questions, which do not vary between Class members, and which  
26 may be determined without reference to the individual circumstances of any Class members,  
27  
28

1 include, but are not limited to, the following:

- 2 a. Whether, within the four years prior to the filing of this Complaint,  
3 Defendant made any call (other than a call made for emergency purposes  
4 or made with the prior express consent of the called party) to a Class  
5 member using any automatic telephone dialing system or any artificial or  
6 prerecorded voice to any telephone number assigned to a cellular  
7 telephone service;  
8  
9 b. Whether Plaintiff and the Class members were damaged thereby, and the  
10 extent of damages for such violation; and  
11  
12 c. Whether Defendant should be enjoined from engaging in such conduct in  
13 the future.

14 19. As a person that received numerous calls from Defendant using an automatic  
15 telephone dialing system or an artificial or prerecorded voice, without Plaintiff's prior express  
16 consent, Plaintiff is asserting claims that are typical of The Class.

17 20. Plaintiff will fairly and adequately protect the interests of the members of The  
18 Class. Plaintiff has retained attorneys experienced in the prosecution of class actions.

19 21. A class action is superior to other available methods of fair and efficient  
20 adjudication of this controversy, since individual litigation of the claims of all Class members  
21 is impracticable. Even if every Class member could afford individual litigation, the court  
22 system could not. It would be unduly burdensome to the courts in which individual litigation  
23 of numerous issues would proceed. Individualized litigation would also present the potential  
24 for varying, inconsistent, or contradictory judgments and would magnify the delay and expense  
25 to all parties and to the court system resulting from multiple trials of the same complex factual  
26  
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28

1 issues. By contrast, the conduct of this action as a class action presents fewer management  
2 difficulties, conserves the resources of the parties and of the court system, and protects the  
3 rights of each Class member.

4 22. The prosecution of separate actions by individual Class members would create a  
5 risk of adjudications with respect to them that would, as a practical matter, be dispositive of the  
6 interests of the other Class members not parties to such adjudications or that would  
7 substantially impair or impede the ability of such non-party Class members to protect their  
8 interests.  
9

10 23. Defendant has acted or refused to act in respects generally applicable to The  
11 Class, thereby making appropriate final and injunctive relief with regard to the members of the  
12 California Class as a whole.  
13

14 **FIRST CAUSE OF ACTION**  
15 **Negligent Violations of the Telephone Consumer Protection Act**  
16 **47 U.S.C. §227 et seq.**

17 24. Plaintiff repeats and incorporates by reference into this cause of action the  
18 allegations set forth above at Paragraphs 1-23.

19 25. The foregoing acts and omissions of Defendant constitute numerous and  
20 multiple negligent violations of the TCPA, including but not limited to each and every one of  
21 the above cited provisions of *47 U.S.C. § 227 et seq.*  
22

23 26. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et seq.*,  
24 Plaintiff and the Class Members are entitled an award of \$500.00 in statutory damages, for  
25 each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

26 27. Plaintiff and the Class members are also entitled to and seek injunctive relief  
27 prohibiting such conduct in the future.  
28

**SECOND CAUSE OF ACTION**

**Knowing and/or Willful Violations of the Telephone Consumer Protection Act  
47 U.S.C. §227 et seq.**

28. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-27.

29. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of 47 U.S.C. § 227 et seq.

30. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 et seq., Plaintiff and the Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

31. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests judgment against Defendant for the following:

**FIRST CAUSE OF ACTION**

**Negligent Violations of the Telephone Consumer Protection Act  
47 U.S.C. §227 et seq.**

- As a result of Defendant's negligent violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to 47 U.S.C. 227(b)(3)(B); and
- Any and all other relief that the Court deems just and proper.

**SECOND CAUSE OF ACTION**

**Knowing and/or Willful Violations of the Telephone Consumer Protection Act  
47 U.S.C. §227 et seq.**

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C.

1 §227(b)(1), Plaintiff and the Class members are entitled to and request treble  
2 damages, as provided by statute, up to \$1,500, for each and every violation,  
pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C); and

- 3 • Any and all other relief that the Court deems just and proper.  
4

5 Respectfully Submitted this 27<sup>th</sup> Day of July, 2015.  
6

7 LAW OFFICES OF TODD M. FRIEDMAN, P.C.  
8

9 By: /s/ Todd M. Friedman  
Todd M. Friedman  
10 Law Offices of Todd M. Friedman  
11 Attorney for Plaintiff  
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